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SENATE JUDICIARY  
EXHIBIT NO. 21  
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## Montana's Death Penalty: Wasteful and Expensive

Many people are surprised to learn that the death penalty's complexity and finality make it much more expensive than life without parole. **Capital punishment is a bloated government program that has clogged our courts, delayed justice for victims' families, and devoured millions of crime-fighting dollars.**

### How much does the death penalty cost?

- ◆ The most rigorous cost study in the country found that *a single death sentence in Maryland costs almost \$2 million more than a comparable non-death penalty case.* Maryland spent \$186 million *extra* to carry out just five executions.<sup>i</sup>
- ◆ More than a dozen states have found that the death penalty is up to 10 times more expensive than sentences of life or life without parole.<sup>ii</sup>
- ◆ The death penalty costs more than just dollars. In the time it takes to pursue one capital case, scores of non-capital cases could be solved and prosecuted. Instead, many crimes go unsolved or unprosecuted, and those responsible are free to commit more serious crimes.
- ◆ Montana has never conducted a comprehensive study of what the death penalty in totality has cost our state. Such a study is needed to determine the true price tag — and resulting tradeoffs — of our state's capital punishment system.
- ◆ In most cases where the death penalty is sought, it is never imposed. And when it is imposed, it is rarely carried out. And when it is carried out, 10 or even 20 years have already passed. Almost half of Montana's death sentences have ended with a life sentence in the end, after taxpayers have already paid for much more death penalty proceedings. And a death penalty that is so rarely used is simply another name for life without parole, at an exponentially greater cost.

### Why does it cost so much?

- ◆ The death penalty process is more complicated because a life is on the line. Capital cases involve more lawyers, more witnesses, more experts, a longer jury selection process, more pre-trial motions, an entirely separate trial to determine the sentence, and countless other expenses — racking up exorbitant costs even before a single appeal is filed.
- ◆ The majority of the death penalty's costs never appear as line items in any budget. They are simply hours spent by judges, clerks, prosecutors, and other law enforcement agencies — time that could be spent investigating, prosecuting, and sentencing other cases.
- ◆ Most death penalty trials are found to be significantly flawed and must be re-done, sometimes more than once, adding to the high cost.

**"I saw how Pondera County was almost bankrupt because of the cost of the death penalty"**

- Betsy Griffing, former Montana Assistant Attorney General

- ◆ In most cases where the death penalty is sought, it is never imposed. And even when it is imposed, it is rarely carried out. Yet taxpayers are saddled with the cost *even in cases where the defendant is not sentenced to death.*

### Who pays for the death penalty?

- ◆ A study found that the costs of the death penalty are borne primarily by increasing taxes and cutting services like police and highway funding, with county budgets bearing the brunt of the burden.<sup>iii</sup>
- ◆ The burden is even higher on smaller counties. Jasper County, Texas, raised property taxes by nearly 7% just to pay for a single death penalty case.<sup>iv</sup> Two capital cases forced Jefferson County, Florida, to freeze employee raises and slash the library budget.<sup>v</sup>
- ◆ The death penalty diverts resources that could be used to help homicide survivors heal — including grief and trauma counseling, scholarships for orphaned children, professional leave to attend court proceedings, and financial support.
- ◆ Law enforcement officers recognize that the death penalty is a poor crime prevention tool. Surveys show that they would prefer funds be spent adding police or reducing drug abuse.<sup>vi</sup>

**"I really question whether the death penalty is worth having in terms of time and money. It has warped our court system. I think the time has come to decide whether it's worth the cost."**

- Burley Mitchell, former Chief Justice of the North Carolina Supreme Court and a long time death penalty supporter  
*The News & Record, North Carolina, August 8, 2000*

### Can we make the system cheaper?

- ◆ Many of the extra costs are legally mandated to reduce the risk of executing an innocent person. And even these safeguards are not enough. At least 130 people have been exonerated from death row after waiting years *or decades* for the truth to come out. Streamlining the process would virtually guarantee the execution of an innocent person.
- ◆ Even states with the fewest protections and a faster process face exorbitant death penalty costs. In Texas, for example, the death penalty still costs an average of three times more than 40 years in prison at maximum security.<sup>vii</sup>

### We've learned a lot about the death penalty in the last 30 years. Can we afford the price any longer?

<sup>i</sup> John Roman et al, "The Cost of the Death Penalty in Maryland," Urban Institute, 2008. <http://www.urban.org/url.cfm?ID=411625>

<sup>ii</sup> For example, New York and New Jersey each spent over \$200 million to execute no one; in Kansas a death case costs 70% more than a non-death penalty case; Florida spends \$51 million extra per year on its death penalty, while California spends \$90 million per year over and above the costs of life without parole; and North Carolina spends over \$2 million per execution.

<sup>iii</sup> Katherine Baicker, "The Budgetary Repercussions Of Capital Convictions," Dartmouth College and the National Bureau of Economic Research, October 2002.

<sup>iv</sup> "Prosecuting Death-Penalty Cases Puts Huge Strain On Local Government Finances," Wall Street Journal, January 9, 2002.

<sup>v</sup> Jeff Scullin, "Death Penalty: Is Price Of Justice Too High? States wonder if the extreme punishment is worth the cost," The Ledger (Florida), December 14, 2003.

<sup>vi</sup> "On the Front Line: Law Enforcement Views on the Death Penalty," Death Penalty Information Center, 1995.

<sup>vii</sup> "Executions Cost Texas Millions," Dallas Morning News, March 8, 1992.